

I. Introduction

On October 18, 1972, Congress enacted the "Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500." Section 402 of the Act established the "National Pollutant Discharge Elimination System (NPDES)," under which the Administrator of the U. S. Environmental Protection Agency may issue permits for the discharge of wastewater in accordance with the procedures and conditions established by other provisions of the Act.

Section 402 of the Act also provides that states desiring to administer their own permit program must submit a full and complete description of such a program including statutory authority and resources to implement the program to the Administrator for approval. To assist the states in developing an adequate program submittal, guidelines and minimum requirements of the state program were published in Title 40 Part 124 of the Federal Register entitled, "State Program Elements Necessary for Participation in the National Pollutant Discharge Elimination System.

This document which has been developed in accordance with established federal guidelines constitutes the State of Hawaii's request to the Administrator for authority to participate in the NPDES by being allowed to administer its own permit program.

(Note: Copies of the Federal Water Pollution Control Act Amendments of 1972 and Title 40 Parts 124-125, Federal Register are included in Attachment No. 1)

II. State Statutes, Regulations and Authority to Implement NPDES

The State currently has statutes and regulations in full effect which establish the State's authority to develop and administer procedures to implement the NPDES program. Such statutes and regulations which are found in Attachment No. 2 include:

- A. Chapter 91, Hawaii Revised Statutes
- B. Chapter 342, Hawaii Revised Statutes
- C. Chapter 37, Water Pollution Control, Public Health Regulations, State of Hawaii
- D. Chapter 37-A, Water Quality Standards, Public Health Regulations, State of Hawaii

A detailed statement by the State Deputy Attorney General of the adequacy of existing State statutes and regulations to meet the requirements of Section 402(b) of the Federal Water Pollution Control Act Amendments of 1972, herein called the Act, is contained in Attachment No. 3.

The State's "Continuing Planning Process" has also been developed pursuant to Section 303(e) of the Act. The Process has been approved by the Regional Administrator of the Environmental Protection Agency (EPA), Region IX. A copy of the Process is found in Attachment No. 4.

III. Inventory of Point Source Discharges

Results of an inventory of all point sources of pollution conducted by the Department of Health, herein called the Department, have been tabulated. The tabulation of point sources or wastewater discharge facilities by agricultural, industrial and municipal categories includes information such as size, major, minor, location and state-federal permitting status. A copy of the point source tabulation, State discharge ranking list, NPDES applicant list and non-filers list are contained in Attachment No. 5.

- A. The tabulation of point sources indicates a total of 181 known point sources which are made up of 26 agricultural, 63 industrial and 92 municipal sources.
 - 1. There are a total of 133 non-federal point sources for which 79 applications for NPDES permits have been received by EPA. As of July 1, 1974, 44 permits have been issued by EPA to non-federal discharge facilities. Of the total number of non-federal point sources 63 are major and 70 are minor.
 - 2. Federal point sources total 48. Of the 48 applications received, 24 NPDES permits have been issued by EPA to federal facilities as of July 1, 1974.
- B. A total of 196 permits and zones of mixing have been issued by the State as of July 1, 1974. The total number of sources for which a permit or zone of mixing has been issued by the State constitutes approximately 60% of the total number of non-federal point sources.

IV. References to Implement NPDES

A. Manpower Requirements

The manpower requirements indicated below are also presented in Attachment No. 6 on the basis of NPDES program functions.

1. Permit Issuance and Self-Monitoring:

a. Pollution Technical Review Branch - NPDES Section

<u>M/Y</u>	<u>Type</u>	<u>Function</u>
1	Environmental Engineer V	Coordinate Permit Processing
1	Environmental Engineer III (vacant)	Permit Preparation
*1	Environmental Engineer III	Permit Preparation
1	Environmental Engineer III	Self-Monitoring
1	Stenographer II	Clerical Support

b. Staff Services Office

<u>M/Y</u>	<u>Type</u>	<u>Function</u>
*1	Program Analyst	ADP Operations
.5	Typist II	Clerical Support (Mag Card)

2. Compliance Monitoring and Enforcement

Pollution Investigation and Enforcement Branch - NPDES Section

<u>M/Y</u>	<u>Type</u>	<u>Function</u>
1	Environmental Health Specialist V	Team Leader
*1	Environmental Health Specialist IV	Case Preparation
*1	Engineer	Walk-Thru's
1	Environmental Health Specialist III	Sampling
(.33	Environmental Health Specialist IV	Sampling)
(.33	Environmental Health Specialist IV	Sampling) Neighbor
1 (.16	Environmental Health Specialist IV	Sampling) Islands
(.17	Environmental Health Specialist IV	Sampling)
**1	Stenographer II	Clerical Support

3. Laboratory Analysis

<u>M/Y</u>	<u>Type</u>	<u>Function</u>
1	Chemist III	Lab Analysis
1	Chemist III	Lab Analysis
.5	Microbiologist III	Lab Analysis

*EPA Personnel Assignment to State.

**New Positions to be Established.

4. Legal Assistance

Attorney General's Office:

<u>M/Y</u>	<u>Type</u>	<u>Function</u>
.5	Deputy Attorney General	Consultation, Training and Prosecution
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15.5	TOTAL	

5. Vacancies and Need for EPA Assistance

One of the Engineer (Environmental) III positions allocated to NPDES is currently vacant. It is anticipated that it will be filled by October 1, 1974, or by the time delegation is received.

At the present time, no positions exist for the remaining manpower needs, those identified above as EPA personnel assignment or new positions to be established. An additional clerical position is being requested from the State pool. However, since the other four are key positions in terms of required knowledge and experience, it is desirable to have the benefit of EPA's knowledge rather than request new positions and recruit from the outside. In addition, it is unclear at this point of time as to how many positions will ultimately be required to maintain the program on an on-going basis.

Therefore, four EPA staff assignments for one-year, beginning October 1, 1974, are being requested during the transfer period of NPDES from federal to state authority. The need for permanent personnel will be evaluated during the third quarter of the fiscal year, and a request for additional permanent positions will be made if justified. This will coincide with approximately six months of experience and the April 15, 1975, due date for the FY 1975-76 Water Strategy and program submission.

6. Qualifications

The general duties and qualifications of the various levels of environmental health specialists, environmental engineers, chemists and microbiologists which are indicated above are indicated in Class Specifications developed by the State Department of Personnel Services. Attachment No. 6 contains the Class Specifications.

B. Financial Requirements

1. Staff Salary

<u>M/Y</u>		<u>FY 74-75 Salary</u>
1	Environmental Engineer V	16,476
1	Environmental Engineer III	13,560
*1	Environmental Engineer III	
1	Environmental Engineer III	14,244
1	Stenographer II	8,328
*1	Program Analyst	
.5	Typist II	3,534
1	Environmental Health Specialist V	9,468
*1	Environmental Health Specialist IV	
*1	Environmental Health Specialist IV	
1	Environmental Health Specialist II	10,956
(.33	Environmental Health Specialist IV	4,182
1 (.33	Environmental Health Specialist IV	3,615
(.16	Environmental Health Specialist IV	2,028
(.17	Environmental Health Specialist IV	1,954
**1	Stenographer II	7,500
1	Chemist III	11,500
1	Chemist III	11,500
.5	Microbiologist III	6,250
.5	Deputy Attorney General	11,500
15.5	TOTAL	136,595

The total cost for personnel salaries including 22% fringe benefits and 7.5% indirect costs is approximately \$179,418. The total cost for salaries of the proposed IPA representatives is approximately \$64,714.

*EPA Personnel Assignment to State.

**New Positions to be Established.

2. Administrative and Technical Support

	<u>Cost (\$/yr.)</u>
Administrative Support	
Office Supplies	3,500
Public Participation Procedures	11,000
Legal Fees	1,000
Technical Support (Field Monitoring)	
Laboratory Supplies	2,500
*Equipment	10,000
Transportation (Air fare, per diem & auto)	
Permit Processing	4,000
Compliance Monitoring	4,600
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	\$ 36,600

*See Attachment No. 6 for the list of equipment

3. Available Funds to Implement NPDES

<u>ITEM</u>	<u>STATE FUNDS</u>	<u>*FEDERAL FUNDS</u>	<u>TOTAL</u>
Personnel Salaries	284,959	121,827	406,786
Equipment	--	5,718	5,718
Travel, Supplies, Publications, etc.	39,025	68,060	107,085
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TOTAL	323,984	195,605	519,589

*Anticipated State pollution control program grant pursuant
to Section 106 of PL 92-500

NOTE: Available funds for each item indicated above include total
funds to implement all functions or activities of the State's
water pollution control program.

C. Functional Organization

As a result of a reorganization of the Environmental Health Division into the Environmental Protection and Health Services Division, the pollution abatement programs were functionally divided with the creation of a Division Staff Services Office. The reorganization charts contained in Attachment No. 6 indicate the current organization structure and the offices and personnel who will implement the NPDES program. The following paragraphs present the general functions of the offices which will directly or indirectly be involved in the NPDES program.

1. Environmental Planning, Coordination and Liaison Office of the Director

Coordinates the development of environmental program strategies (water pollution control, air pollution control, solid wastes management, etc.) and makes them compatible with federal goals. Reviews federal legislation, rules and regulations, guidelines. Provides liaison with federal representatives to assure compatibility. Develops contracts, agreements, grant applications, etc. needed to implement strategies and assure adequate funding from federal sources.

Maintains liaison with other state agencies in the development of departmental strategies with overall state goals as formulated by state offices (OEQC, EC), state agencies (DPED, LUC) and commissions (TCEP, ITCC).

Maintains coordination and liaison with other federal agencies with environmental programs such as USGS, Army Corps of Engineers, U. S. Coast Guard; with other state agencies (DOA, DLNR, DOT); with the University of Hawaii environmental research programs; and with the county planning, public works and water departments.

2. Environmental Protection and Health Services Division

Administers statewide programs concerned with the abatement of various categories of pollution, including programs for control of smoke, particulate matter, and noxious gases; sewage, industrial by-products, heated liquids and silt; municipal, industrial, and agricultural solid waste; noise; drinking water quality and radiation programs. Administers programs which concern the provision of community health services related to environmental health including public sanitation, vector control, air conditioning and fumigation control, food and drug testing and certification, and narcotics and dangerous drug control. Establishes broad program policies and oversees the management of the associated activities of the various branches.

3. Division Staff Services Office

Plans, directs and reviews planning, programming and budgeting activities coordinated with the branches, Administrative Services Office and the Department of Budget and Finance; develops state standards, implementation and management plans, and departmental rules, regulations, and policies; coordinates departmental response on proposed projects requiring an evaluation of pollution potential and mandatory control measures including environmental impact statements, DLNR conservation district use permit applications, county conditional use permit applications, and dredging permit applications; assesses departmental environmental research needs and assigns priorities; coordinates training programs and manpower development, both in-house and external; coordinates data and information system programs for the division including input, output, and storage; provides public information and education on environmental programs.

4. Enforcement and Investigation Branch

Administers and enforces statewide air, solid waste and water pollution regulations.

- . Identify sources of pollution through area surveillance, routine inspection and investigation of complaints.
- . Evaluate public health significance and compliance to regulations through source monitoring, ambient sampling and special studies.
- . Institute corrective measures through conferences, administrative hearings or court action.
- . Coordinate motor vehicle enforcement program with County Police Departments.
- . Provide technical assistance to sources to develop procedures to comply with regulations.

Conducts special studies throughout the State.

- . Conduct special studies of streams and beaches for bacterial pollution to identify new sources caused by natural or man-made means.
- . Conduct baseline studies of ambient air to describe air quality levels.
- . Conduct studies of fish and other marine life destruction to determine cause.

Administers the smoke reading school to provide continuing certification of inspectors in the technique of evaluating visible smoke intensities through training with a smoke generator.

Coordinating activities with Technical Review Branch.

- . Conduct field investigations to obtain or verify information for registration and permit systems and emission inventory.
- . Assist engineers in stack sampling projects.
- . Review environmental impact statements not requiring engineering expertise.

Conducting activities with the Laboratories Branch, Medical Health Services Division.

- . Provide field services such as calibrating instruments and conducting supporting field tests.

Other technical activities

- . Participate in the development of departmental rules and regulations.
- . Participate in PPBS activities.

5. Technical Review Branch

Administers and coordinates the statewide engineering and technical functions relating to the environmental programs of the Department (except noise pollution).

Regulates and Controls Discharge Sources and Solid Waste

- . Reviews applications and engineering plans for permit from new, old or modified sources of pollution and holds public hearings as needed before issuance or denial.
- . Issues permits to construct, operate or modify facilities as needed.
- . Evaluates air compliance schedule applications and develops compliance schedule orders for enforcement purposes.
- . Prepares emission reduction plans through studies and conferences.
- . Compiles, analyzes and summarizes ambient air quality data to detect trends and serves as data base for control strategy consideration.

- . Evaluates environmental pollution potential for proposed projects in environmental impact statements requiring engineering expertise comments on Department of Land and Natural Resources conservation district use application, and review Department of Transportation dredging permit applications.
- . Provides technical assistance to developers and new industries on environmental engineering and pollution control.
- . Reviews all land development plans that require private sewage treatment plants.
- . Processes variance requests and participates in public hearings.
- . Continues to prepare for takeover of NPDES from EPA.

Administers Construction Grants for Municipal Sewage Treatment Plants.

- . Coordinates and provides major direction to construction grants program.
- . Holds pre-conceptual meetings, evaluates projects, reviews plans and specifications, certification of project, offer grants, etc.
- . Coordinates jointly with EPA for all construction grant projects.

Other Technical Functions

- . Conducts air pollution source surveillance by performing stack sampling.
- . Participates in the development and revision of departmental regulations concerning the control and abatement of air, water and solid waste pollution and assists the environmental planning office in helping the county governments in developing solid waste management plans.
- . Reviews drinking water quality data for potability from standpoint of U.S.P.H.S. Drinking Water Standards.
- . Provides engineering assistance to all outer islands that do not have environmental engineering expertise on staff.

V. Permit Application--Processing

The processing of permit applications including the receipt, review and accounting of applications through the actual issuance or denial of a permit will be handled by a project management section of the Pollution Technical Review Branch (PTR) whose sole responsibility will be to process NPDES permit applications.

Upon receipt of a permit application the application will be assigned to an engineer in the NPDES section of the PTR Branch. The engineer assigned will be responsible for processing the application including logging through the actual issuing or denying of a permit. An accounting system to be utilized to determine the status of the processing of a permit after an application is completed is included in Attachment No. 7. Also included in the said Attachment are the flow charts which indicate the general procedures to be utilized by the PTR Branch in the processing of permit applications.

A. Permit Application Management

1. All information, requirements, guidelines, etc. pertinent to the NPDES program will be catalogued and filed. Such information will be available to all permit applicants and other interested parties. Whenever appropriate, waste dischargers will receive or be notified of existing or newly developed guidelines or requirements. Attachment No. 8 includes examples of letters in which basic information regarding the filing requirements of the NPDES program is transmitted to dischargers. Application forms to be utilized for various types of discharges are found in Attachment No. 9.

2. Receipt of Applications

All applications will be assigned a number and immediately logged in an application account ledger. The application as well as permit numbering system to be utilized will be identical to the system currently being utilized by EPA except that an "S" will be added to the number (i.e. HI 0000386 S). Attachment No. 10 indicates the application accounting system to be utilized.

3. Review of Applications

- a. The first step in the application review process is the determination of whether or not an NPDES permit is required. If a permit is not required, the applicant will be so notified and the entire application including any filing fees will be returned to the applicant. If a permit is required, the assigned engineer will determine if adequate fee pursuant to 40 CFR 125.12 was submitted. The applicant will be notified of insufficient filing fees. Attachment No. 11 contains the standard form letters for exemption or no discharge acknowledgment of receipt of application and request for filing fees.

- b. Upon verification of the appropriate filing fees, a receipt is made in quadruplicate. The original receipt is submitted to the applicant. Two copies of the receipt and the fee are submitted to the Administrative Services Office (ASO) of the Department of Health. The ASO returns a copy of the receipt which has been stamped to affirm receipt by ASO to the PTR Branch and activates a deposit slip in quadruplicate. Three (3) copies of the deposit slip and the fee are submitted to the Department of Budget and Finance (B&F). The B&F actually deposits the fee into the State account or general fund and returns a copy of the deposit slip which has been stamped to affirm receipt by B&F to the ASO. The deposited fee is considered as State revenue and credited to the PTR Branch. Attachment No. 12 includes copies of the receipt and deposit slip forms.
 - c. All applications will be reviewed for adequacy and completeness. Guidelines to assist in determining the adequacy of the application form and information submitted for the various types of discharges will be utilized. Also criteria for determining completeness or the need for additional information will be used. Attachment No. 13 includes the guidelines and criteria to be utilized in the application review process. Also included in Attachment No. 13 are the following typical form letters which would most commonly be submitted to applicants:
 - (1) Granting Extension for Application Submittal
 - (2) Request for Long Form A
 - (3) Request for Long Form C
 - (4) Standard Letter Regarding Incomplete Short Form Applications
 - (5) Standard Letter Requesting Additional Information and/or Clarification
 - (6) Standard Letter Requesting Verification of No Overflow from Lagoons and Ponds
 - d. Upon determining that an application is adequate and complete, a letter of acknowledgment to the applicant of receipt of a completed application will be mailed to the applicant. A form letter of acknowledgment is included in Attachment No. 14.
4. All applications, reports and other information submitted by applicants will be made available for inspection by the public during established working hours unless such information concerns or relates to confidential trade secrets, processes, operations, statistical data or economic information. The system to be implemented by the Department to provide security of confidential information is contained in Attachment No. 15.

5. Any necessary legal interpretations of various application requirements will be referred to the State Deputy Attorney General assigned to the NPDES program. While most requests for legal interpretations would be accomplished by direct verbal conferences or meetings between the assigned engineer and Deputy Attorney General, complex or controversial legal interpretations will be requested by letter to the Attorney General's Office.

B. Development of Draft Permits

1. The permit form to be utilized will be basically identical to the form currently being utilized by EPA, EPA Form 3320-4 (10-73). The general conditions and requirements applicable to discharges are already printed on the said form. Part II of the permit form dealing with management requirements and responsibilities will essentially be the same for all types of discharges. The standard formats for industrial, municipal and agricultural discharge permits are indicated in Attachment No. 16.
2. Special conditions pertinent to effluent limitations, compliance schedules, monitoring and reporting requirements will be developed based on the type of discharge, nature and location of the discharge facility and other conditions of the existing discharge.
 - a. Each permit shall contain conditions to insure compliance with applicable effluent limitations pursuant to Sections 301, 302, 306 and 307 of the Act. More stringent limitations necessary to meet or implement any applicable water quality standards or to meet any State or Federal law or regulation shall be instituted whenever applicable. Effluent standards promulgated by the Administrator of EPA shall be conveniently filed in the permits section of the PTR Branch.
 - (1) Interim effluent limitations shall be applied to insure efficient operations and to control quality and quantity of pollutants discharged from existing facilities. Also in the absence of adequate data of a discharge, or effluent limitations or standards to be promulgated by the Administrator, interim effluent limitations shall be applied as necessary to carry out the provisions of the Act.
 - (2) Final effluent limitations shall be applied to each permit to achieve best practicable control technology, currently available as defined by the Administrator, or to meet or implement applicable water quality standards. Whenever applicable, effluent limitations based on best available technology economically achievable, national standards of performance and toxic and pretreatment standards shall be required.

- b. Each permit shall contain implementation schedules for providing pollution abatement facilities to achieve compliance with the applicable interim and/or final effluent limitations. Such schedules of compliance shall include intermediate target dates and requirements for progress reports to insure the orderly development of pollution abatement facilities.
 - c. Monitoring and reporting requirements shall also be applied in every permit. Guidelines for monitoring requirements which are included in Attachment No. 17 will be utilized. Self compliance monitoring and reporting forms which shall be completed by the permittee and submitted to the Department and EPA are also included in Attachment No. 17.
 - d. The permit shall include provisions for other special conditions necessary to provide adequate treatment or control of the various discharges.
3. Field inspection of permit applicants' facilities will be made by the assigned engineer for every application prior to the completion of a draft permit, except for those discharge facilities which are familiar to or have recently been visited by the assigned engineer.
4. In order to assure that permits will be developed in compliance with all effluent limitations, conditions and requirements pursuant to the Act, expertise on guidelines for BPCTCA, BATEA, BADCT, pretreatment, toxic standards and other standards shall be maintained. The supervisor of the NPDES permit issuing section shall be responsible to maintain expertise on the aforementioned guidelines and to guide appropriately the engineers assigned to draft permits. The supervisor shall have at least three (3) years of experience in wastewater discharge permitting program and have knowledge of the operations of the various types of discharge facilities within the State.
5. A draft permit shall be considered complete and ready for public notice after review by the Department, EPA and applicant, and consideration of comments received from such reviews. A thirty (30) day period shall be allotted for the draft review which shall be conducted concurrently by the said organizations. The standard letter of transmittal of initial draft permits is found in Attachment No. 18.
- a. Draft permits shall be reviewed by PTR Branch, Staff Services Office and the Deputy Attorney General.
 - (1) The supervisor of the permit section of the PTR Branch shall conduct a thorough review to insure that the draft permit is in compliance with effluent limitations and other guidelines pursuant to the Act, and wasteload allocations, water quality standards and zones of mixing established by the State. Permits involving publicly owned treatment works shall be reviewed by the supervisor of the

section in which construction grants are administered. The draft permit shall also be reviewed by the Chief of the PTR Branch for consistency with other air and water programs.

- (2) The Staff Services Office located within the Environmental Protection and Health Services Division shall review the draft permit for consistency with the basic plans developed pursuant to Section 303(e) of the Act, other programs within the Division and the State Environmental Quality Commission and Environmental Impact Statements Act. Conditions requiring compliance with the said Act shall be included in the permit whenever any action to be taken by the applicant is determined to be applicable to the said Act. Attachment No. 19 contains a copy of the Environmental Quality Commission and Environmental Impact Statements Act.
 - (3) The Deputy Attorney General assigned to the NPDES program shall review the draft permit for legal compliance with all Federal and State laws and regulations.
- b. Procedures for review of draft permits by EPA shall be in accordance with the provisions contained in the "Memorandum of Agreement" between the Department and EPA regarding the NPDES program. The Memorandum of Agreement is contained in Attachment No. 30.
 - c. The applicant shall also have an opportunity to review and comment on the draft permit. Whenever warranted, meetings or conferences will be held with the applicant to clarify and discuss the conditions and requirements of the draft permit.

C. Public Notice of Proposed Permit Issuance or Denial

1. Upon completion of a draft permit or tentative determination to deny a permit, a public notice of intent to issue or deny a permit shall be prepared. The public notice shall be prepared in accordance with Section 9, Chapter 37, of the State Public Health Regulations, "Water Pollution Control" which is included in Attachment No. 2. The public notice shall be mailed to any person or group upon request and will at least be published in a daily newspaper of statewide circulation. A minimum of thirty (30) days will be allowed for comments. Attachment No. 20 contains an example of a public notice and the standard letter of transmittal of public notice.
2. A fact sheet shall also be prepared pursuant to Section 10 of Chapter 37 which was described in the preceding paragraph. The fact sheet shall also be mailed to any person or group upon request and notice of its availability shall be included in the public notice of intent to issue or deny a permit. Attachment No. 21 contains an example of a fact sheet to be utilized.

3. A mailing list of persons or groups who have requested copies of applications, public notices and fact sheets shall be maintained. The mailing list shall also include any appropriate or interested federal, state and county government agencies. For the purpose of developing a mailing list a questionnaire will be sent to the list of agencies included in Attachment No. 22 to determine their interest in receiving copies of applications, public notices, fact sheets or other documents of major, minor, or various types, sizes or locations of discharges. Special procedures to allow input by the district engineer of the Army Corps of Engineers will be formalized in a written agreement. Appropriate mailing lists currently being maintained by EPA will be included in the Department's mailing list. Any person, group or agency on the mailing list will be allotted a 30-day period. Example letters to be used for requesting other government agencies' comments are also included in Attachment No. 22.
4. All comments and recommendations received as a result of notice to public and other government agencies shall be considered. Whenever appropriate the draft permit shall be modified in accordance with the comments and recommendations received. Whenever warranted, responses to the public or other government agencies who submitted comments or recommendations shall be made.
5. If any substantive change is made to the draft permit as a result of public or other government agencies input, another public notice of proposed permit issuance or denial shall be published. Any change in the effluent limitations, compliance schedule dates greater than nine (9) months or other conditions due to substantive issues raised by the public, government agencies or applicant is considered a substantive change. The procedures for re-notice shall be in accordance with paragraph C-1 of this section. An example of a public notice of revised determinations and proposed actions, and standard letter of transmittal of revised public notice are indicated in Attachment No. 23.

D. Public Hearing

1. Whenever a public hearing is warranted pursuant to Section 13 of Chapter 37 of the State Public Health Regulations, public notice of such hearing shall be published in at least one daily newspaper of statewide circulation thirty (30) days prior to the date of hearing. Notices shall also be mailed to the public and other government agencies who received a copy of the notice or fact sheet for the permit application or upon request.
2. The public hearing notice shall be developed pursuant to Section 14 of Chapter 37 (see Attachment No. 2). An example of a public notice is included in Attachment No. 24.

E. Permit Issuance

1. If the draft permit issued with a public notice is modified as a result of the public notice or public hearing, the revised copy of the proposed permit shall be transmitted to EPA for review prior to issuance. If no objection is received from EPA by the Department within thirty (30) days, the proposed permit may be issued by the Department. The Department shall not issue a proposed permit if EPA objects to its issuance.
2. A proposed permit shall be reviewed and approved by pertinent offices within the Department before it is issued by the Director of the Department. In addition to the reviews by offices indicated in paragraph B-5(a), the proposed permit shall also be transmitted to the Office of the Deputy Director of Health for Environmental Affairs for input. The permit issuance approval route slip to be utilized is included in Attachment No. 25. Certification is hereby made that the following persons currently occupying the positions which are indicated on the permit approval route slip are in compliance with Section 32 of Chapter 37 regarding conflicts of interest:

Mr. Ralph K. Yukumoto, Chief, Pollution Technical Review Branch

Mr. Shinji Soneda, Chief, Environmental Protection and
Health Services Division

Dr. Henri P. Minette, Deputy Director for Environmental Health

Dr. Walter B. Quisenberry, Director of Health

3. Concurrent with the issuance of a permit to the applicant, two copies of the permit together with other pertinent documents shall be transmitted to EPA. A copy of the issued permit shall also be transmitted to the Pollution Investigation and Enforcement Branch (PIE). The standard notification or transmittal letters of issued permits to be used are contained in Attachment No. 26.
4. All permit applicants will have the opportunity to appeal to the Director of Health of the denial of a permit or any of the conditions of a issued permit. The applicant will have twenty (20) days after receipt of notification of denial or issuance of a permit to appear before the Director or submit a written letter of appeal to the Director. The applicant may further appeal to a circuit court from any of the Director's decision in the manner provided in Chapter 91 of the Hawaii Revised Statutes (see Attachment No. 2).

VI. Permit Compliance Monitoring and Enforcement

A. Compliance Monitoring

1. The review of compliance by the permittee with the permit conditions including schedules of compliance, effluent limitations and other requirements will be conducted by the permit section of the Pollution Technical Review Branch. One engineer will be specifically assigned to maintain the system for review of compliance.
 - a. The system for reviewing pollution abatement schedules involves the tabulation of all compliance dates by months. Attachment No. 27 contains an example of the compliance data tabulation. For each compliance date a letter of notification of the compliance date and actions will be mailed by certified mail to permittee three (3) weeks prior to the compliance date. If the permittee fails to respond to the letter of notification of compliance date by the end of the compliance date or refuses to comply, a memorandum of non-compliance will be submitted to the Pollution Investigation and Enforcement Branch for enforcement action. Attachment No. 27 contains the form letters to be utilized for the notification of compliance date and the memorandum of non-compliance.
 - b. The system for reviewing compliance with effluent limitations through the submission of self monitoring reports and compliance with other conditions requiring progress or other reports also involves the tabulation by month of due dates of all reports. If any report is not received by the Department by the end of the fifth day after the report due date, a letter of notification of non-compliance will be mailed to the permittee. In any case where an enforcement action is appropriate, the memorandum of non-compliance will be transmitted to the Pollution Investigation and Enforcement Branch for action. Examples of the tabulation of report due dates and letter of notification of non-compliance are contained in Attachment No. 28. The memorandum of non-compliance to be utilized in this review system will be identical to the memorandum utilized in the preceding paragraph.
2. Compliance monitoring of the permittee's discharge facility to verify pollution abatement or control activities and compliance with effluent limitations will be conducted by a section of the PIE Branch whose sole responsibility will be to implement compliance monitoring and enforcement activities of the NPDES program. For all scheduled compliance monitoring of discharge facilities, the permittee shall be notified at least three (3) days prior to the date of inspection of sampling. Results of such activities shall be documented in a report which shall include the evaluation of whether the permittee is in compliance or not and recommendations for further action.

a. Inspection of Facility

- (1) All major dischargers shall be inspected at least once per year.
- (2) All minor dischargers shall be inspected at least once the first year and bi-annually thereafter.
- (3) All inspections shall include examination of records, monitoring procedures, equipment, analytical procedures, sampling points, treatment process, operation and maintenance of treatment facilities including verifying achievement of abatement schedule deadlines and emergency plans and procedures.

b. Sampling and Analysis of Effluent

- (1) All inspections at major discharge facilities shall include sampling of effluent.
- (2) Sampling of minor discharge facilities shall be made when conditions indicate the need and when manpower and laboratory resources allow.
- (3) All samples collected shall be:
 - (a) Transported and handled in accordance with "Chain of Custody" procedures;
 - (b) Preserved according to the methods cited in the EPA manual entitled, Methods for Chemical Analysis of Water Wastes, unless superseded by sample preservation methods cited in Part 136, Subchapter D of Chapter 1, 40 CFR. All other sample preservation shall be conducted in accordance with generally accepted practices unless otherwise required by the Regional Administrator;
 - (c) Delivered from the field and analyzed within the maximum holding times as specified in the EPA manual identified in subparagraph (b) above.
 - (d) Analyzed in accordance with the methods as specified in 40 CFR 136 and the EPA manual identified in subparagraph (b) above;
 - (e) Quality controlled in accordance with the practices recommended in the EPA manual, Handbook for Analytical Quality Control in Water and Wastewater Laboratories, as revised.

3. Notification of permittee's non-compliance shall be made in accordance with paragraph B of this section.
4. Verification of non-compliance by effluent sampling, resampling, site inspection, examination of permittee records, etc., shall be made in support of enforcement case preparation as the need arises. The verification procedures may be initiated through such indicators of non-compliance as: discharger self-monitoring reports, the compliance monitoring program of this Department and citizens' complaints.

B. Enforcement Procedures

1. Enforcement against municipalities

- a. Issue Notice of Violation and Cease and Desist Order prohibiting additional dischargers to the sewer system.
- b. Inform the municipality of its right to request a hearing, pursuant to Section 342-8, Hawaii Revised Statutes.
- c. The hearing will be conducted in accordance with Chapter 91, Administrative Procedure, Hawaii Revised Statutes.
- d. The Director may, after a hearing affirm, modify or rescind the order.

2. Enforcement against industrial dischargers

- a. Non-chronic violations (Interim deadline, compliance possible within 30 days, next deadline can be met; violation for good and valid cause, next deadline cannot be met; infrequent violation of effluent limitations, violation of monitoring and reporting requirements or special conditions.)
 - (1) Issue Notice of Violation and Order to Cease and Desist either in person or by registered mail.
 - (2) Inform the violator of his right to request a hearing, pursuant to Section 342-8, Hawaii Revised Statutes.
 - (3) The hearing will be conducted in accordance with Chapter 91, Administrative Procedure, Hawaii Revised Statutes.
 - (4) The Director may, after a hearing, affirm, modify or rescind the order.
 - (5) Any violation of an order may, at the discretion of the Director, subject the violator to the penalties specified in Section 342-11, Hawaii Revised Statutes.

- b. Chronic violations (after two or more violations) of orders. The Director shall institute a civil action in any court of jurisdiction for injunctive relief to prevent further violations and to recover civil monetary penalties.

3. Enforcement against non-filers

- a. Identification and accounting of non-filers. Information of possible non-filers will be received through complaints, surveillance activities and inventory reports by the Pollution Investigation and Enforcement Branch.
- b. Information on any non-filer will be submitted to the Pollution Technical Review Branch. The appropriate letter of notification of filing requirements which is included in Attachment No. 8 shall be transmitted to the non-filer.
- c. Upon receipt of application, the application will be referred to the Pollution Investigation and Enforcement Branch for any necessary field inspection to verify information.
- d. If non-filer fails to apply within the thirty (30) days allotted or refuses to file an application, the following enforcement procedures shall be implemented.
 - (1) Issue Notice of Violation and Order to make application within fifteen (15) days.
 - (2) Follow-up with a telephone call at least five (5) days prior to deadline.
 - (3) Failure to comply with order will result in civil action in court of jurisdiction for injunctive relief and/or monetary penalties.

4. Procedures for case development

The procedure for case development is in accordance with the Intra-Departmental Directive Number 64-12 (Revised January 14, 1972) from the Director of Health. A copy of the Directive is contained in Attachment No. 29. The following enforcement procedures shall apply unless otherwise provided by statute or superceded by action of the Director of Health.

- a. A determination must be made that a violation of law or regulation has in fact occurred. There must be sufficient documentation of evidence.
- b. Issue a written Notice of Violation and Order to comply. A specified period of time may be allowed for compliance depending on circumstances and requirements of law. The Attorney General serves in an advisory capacity.

c. If an issued order is not complied with, one of the following actions may take place:

- (1) Schedule and hold a contested case hearing in accordance with the provisions of the Administrative Procedures Act (Chapter 91, Hawaii Revised Statutes) and the Department's Rules of Practice and Procedure.
- (2) Initiate court action, other than criminal, in accordance with Section 342-12, Hawaii Revised Statutes.

5. Procedures for case referral

- a. The Attorney General serves in an advisory capacity while exhausting administrative procedures to enforce an order. The Attorney General will be apprised of all contemplated actions by means of a memorandum.
- b. Cases will be referred to the Attorney General for civil action in any court of jurisdiction for injunctive relief and to recover civil monetary penalties after all administrative process have failed. The referral will be made by memorandum from the Director to the Attorney General with the complete file. The Department of Health will then act in an advisory capacity to the Attorney General.

VII. Other Functions

In addition to the provisions and procedures covered in Sections V and VI, other related activities and procedures must be provided to insure efficient coordination between the Department and EPA in implementing an effective NPDES program in Hawaii. For the purposes stated above a "Memorandum of Agreement" between the Department and EPA regarding the NPDES program has been developed. A copy of the "Memorandum of Agreement" is found in Attachment No. 30. Other functions not included in the "Memorandum of Agreement" are discussed in this Section.

A. Assistance for Federal Facilities Compliance

1. The Department will review all draft permits prepared by EPA for federal facilities. Such draft permits including applications should be submitted to the Department prior to public notice. A thirty (30) day period for review and comment by the Department should be allowed.
2. The Department will assist EPA in conducting compliance monitoring of federal facilities. The extent of the assistance to be rendered by the Department must be determined by EPA and agreed upon by the Department. Such assistance could include facilities inspection and sampling and analysis of effluent discharges. All results, reports and evaluations developed or violations detected by the Department would be referred to EPA for their action.

B. Input into the National Data Bank

The Department will develop a data management capability through the assistance of EPA. The data management capability would include the input of data from applications, permits, self-monitoring reports, compliance monitoring reports or evaluations and other pertinent information, and retrieval of such information. Until such time as the Department installs a terminal, data shall be coded by the Department and submitted to EPA for input into the General Point Source File. Retrievals will be accomplished by submitting coded requests to EPA.

C. Accomplishment Plan

1. Upon authority to issue NPDES permits, the first priority is to issue permits to all applicants without permits by December 31, 1974. The second priority is to issue permits or implement enforcement actions on all known non-filers. Attachment No. 5 includes a list of known non-filers which remain to be verified. The Department will also initiate re-issuance of all federally-issued NPDES permits such that at least 50% of the existing permits are re-issued by June 30, 1975 and 100% by December 31, 1975. The order in which permits will be re-issued will essentially follow the order of rank which has been developed by the Department pursuant to Section 303(3) of the Act. Attachment No. 5 contains the list of discharges according to rank. Compliance monitoring inspections will be conducted at least for all major discharges which have not been inspected during the year by EPA.
2. Based on the objectives stated in the preceding paragraph and in Sections V and VI regarding permit processing and compliance monitoring a six-month work plan which will set forth the objectives on a monthly basis will be developed. The six-month work plan will be reviewed and revised as needed at least on a quarterly basis.
 - a. Two separate work plans will initially be developed for permit processing of applicant without permits and permit re-issuing of applicants with federally issued permits. The format of the work plans is included in Attachment No. 31.
 - b. The formats of the work plans for compliance monitoring evaluations and facility inspections are included in Attachment No. 32.
3. Progress reports on permit processing, compliance monitoring and enforcement actions will be developed by the Department. Such reports will be utilized to evaluate and revise work plans and to provide the basis for determining the status of the NPDES program and developing reports required by EPA.

- a. The formats of reports of monthly accomplishments for the NPDES permits and compliance and enforcement actions are included in Attachment No. 33. The reports will be completed on the last working day of each month.
- b. Quarterly reports of non-compliance pursuant to Section 21(d) of Chapter 37 (See Attachment No. 2) shall also be completed and transmitted to EPA. The format for the quarterly report is contained in Attachment No. 33.